

Exhibit I

South Carolina State Conference of the NAACP, et al. v. McMaster, et al.
Case No. 3:21-cv-03302-JMC-TJH-RMG
Amended Privilege Log of House Defendants

Line Number	Control Number	Privilege Type	Date	Email From	Email To	Email CC	Title	Privilege Description	Privilege Challenged Basis
1	REL00004081	Work Product	11/5/2021				Map Room Schedule 2021.xlsx	Confidential spreadsheet created and maintained by legal counsel containing attorney thoughts and impressions of redistricting process.	This document is not attorney work product. It was not drafted in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."). Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "the driving force behind the preparation of" this document" is for legislation, not litigation. <i>Nat'l Union Fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co.</i> , 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision.").
2	REL00011529	Attorney-Client Communication	11/10/2021	Joseph S. "Joe" Daning	Emma Dean	Joseph S. "Joe" Daning	Amendment for House Dist. 92	Confidential request from legislator to staff counsel for legal assistance with drafting amendment to legislation.	An attorney client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty Gen. of N.Y.</i> , 269, F. Supp. 3d 124, 171 (S.D.N.Y. 2017).
3	REL00011642	Attorney-Client Communication; Work Product	11/9/2021	Emma Dean	Neal Collins		FW: PRIVILEGED & CONFIDENTIAL Talking Points and Primer	Confidential email from attorney to client conveying legal advice and supporting documentation regarding public hearings.	An attorney client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty Gen. of N.Y.</i> , 269, F. Supp. 3d 124, 171 (S.D.N.Y. 2017). The latter would not be protected by the attorney client privilege. <i>Id.</i> This document is not attorney work product. It was not drafted in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."). Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "the driving force behind the preparation of" this document" is for legislation, not litigation. <i>Nat'l Union Fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co.</i> , 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision.").
4	REL00011642.0001	Attorney-Client Communication; Work Product	11/9/2021				11.9.2021 Meeting Talking Points.pdf	Attorney's confidential work product containing mental impressions, opinions, and legal advice regarding public hearings.	Same
5	REL00011642.0002	Attorney-Client Communication; Work Product	11/9/2021				11.9.2021 Law Primer.pdf	Attorney's confidential legal research on redistricting law and attorney mental impressions on the same to client in preparation of public hearing.	Same

South Carolina State Conference of the NAACP, et al. v. McMaster, et al.

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Amended Privilege Log of House Defendants

Line Number	Control Number	Privilege Type	Date	Email From	Email To	Email CC	Title	Privilege Description	Privilege Challenged Basis
6	REL00011643	Attorney-Client Communication; Work Product	11/9/2021	Emma Dean	Jason Elliot		FW: PRIVILEGED & CONFIDENTIAL Talking Points and Primer	Confidential email from attorney to client conveying legal advice and supporting documentation regarding public hearings.	An attorney client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty Gen. of N.Y.</i> , 269 F. Supp. 3d 124, 171 (S.D.N.Y. 2017). The latter would not be protected by the attorney client privilege. <i>Id.</i> This document is not attorney work product. It was not drafted in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."). Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "the driving force behind the preparation of" this document" is for legislation, not litigation. <i>Nat'l Union fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co.</i> , 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision.").
	REL00011643.0001	Attorney-Client Communication; Work Product	11/9/2021				11.9.2021 Meeting Talking Points.pdf	Attorney's confidential work product containing mental impressions, opinions, and legal advice regarding public hearings.	Same
	REL00011643.0002	Attorney-Client Communication; Work Product	11/9/2021				11.9.2021 Law Primer.pdf	Attorney's confidential legal research on redistricting law and attorney mental impressions on the same to client in preparation of public hearing.	Same
9	REL00011644	Attorney-Client Communication; Work Product	11/9/2021	Emma Dean	Weston Newton		FW: PRIVILEGED & CONFIDENTIAL Talking Points and Primer	Confidential email from attorney to client conveying legal advice and supporting documentation regarding public hearings.	An attorney client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty Gen. of N.Y.</i> , 269 F. Supp. 3d 124, 171 (S.D.N.Y. 2017). The latter would not be protected by the attorney client privilege. <i>Id.</i> This document is not attorney work product. It was not drafted in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."). Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "the driving force behind the preparation of" this document" is for legislation, not litigation. <i>Nat'l Union fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co.</i> , 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision.").
	REL00011644.0001	Attorney-Client Communication; Work Product	11/9/2021				11.9.2021 Meeting Talking Points.pdf	Attorney's confidential work product containing mental impressions, opinions, and legal advice regarding public hearings.	Same
	REL00011644.0002	Attorney-Client Communication; Work Product	11/9/2021				11.9.2021 Law Primer.pdf	Attorney's confidential legal research on redistricting law and attorney mental impressions on the same to client in preparation of public hearing.	Same
12	REL00011645	Work Product	11/10/2021	Emma Dean	Jason Elliot		FW: Privileged and Confidential - Public Submissions	Confidential email from attorney to client conveying legal advice and supporting documentation regarding public map submissions and public hearings.	This document is not attorney work product. It was not drafted in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."). Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "the driving force behind the preparation of" this document" is for legislation, not litigation. <i>Nat'l Union fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co.</i> , 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision.").
	REL00011645.0001	Work Product	11/10/2021				LOWV Map.PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
	REL00011645.0002	Work Product	11/10/2021				Michael Roberts Map.PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
15	REL00011645.0003	Work Product	11/10/2021				NAACP Map.PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same

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16	REL00011645.0004	Work Product	11/10/2021				Erica Sampson Map (HD-4).PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
17	REL00011645.0005	Work Product	11/10/2021				Jeni Atchley (HD-5).PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
18	REL00011645.0006	Work Product	11/10/2021				John Kraljevich (HD-6).PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
19	REL00011645.0007	Work Product	11/10/2021				Kevin Eckert Map (HD-7).PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
20	REL00011645.0008	Work Product	11/10/2021				Statistical Comparison.pdf	Confidential document created in anticipation of litigation by attorney summarizing public submissions with attorney mental impressions and opinions.	Same
21	REL00011646	Work Product	11/10/2021	Emma Dean	Neal Collins		FW: Privileged and Confidential - Public Submissions	Confidential email from attorney to client conveying legal advice and supporting documentation regarding public map submissions and public hearings.	Same
22	REL00011646.0001	Work Product	11/10/2021				LOWV Map.PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
23	REL00011646.0002	Work Product	11/10/2021				Michael Roberts Map.PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
24	REL00011646.0003	Work Product	11/10/2021				NAACP Map.PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
25	REL00011646.0004	Work Product	11/10/2021				Erica Sampson Map (HD-4).PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
26	REL00011646.0005	Work Product	11/10/2021				Jeni Atchley (HD-5).PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
27	REL00011646.0006	Work Product	11/10/2021				John Kraljevich (HD-6).PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
28	REL00011646.0007	Work Product	11/10/2021				Kevin Eckert Map (HD-7).PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
29	REL00011646.0008	Work Product	11/10/2021				Statistical Comparison.pdf	Confidential document created in anticipation of litigation by attorney summarizing public submissions with attorney mental impressions and opinions.	Same
30	REL00011647	Work Product	11/10/2021	Emma Dean	Weston Newton		Privileged and Confidential - Public Submissions	Confidential email from attorney to client conveying legal advice and supporting documentation regarding public map submissions and public hearings.	Same
31	REL00011647.0001	Work Product	11/10/2021				Statistical Comparison.pdf	Confidential document created in anticipation of litigation by attorney summarizing public submissions with attorney mental impressions and opinions.	Same
32	REL00011647.0002	Work Product	11/10/2021				Michael Roberts Map.PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
33	REL00011647.0003	Work Product	11/10/2021				NAACP Map.PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
34	REL00011647.0004	Work Product	11/10/2021				Erica Sampson Map (HD-4).PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
35	REL00011647.0005	Work Product	11/10/2021				Jeni Atchley (HD-5).PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
36	REL00011647.0006	Work Product	11/10/2021				John Kraljevich (HD-6).PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
37	REL00011647.0007	Work Product	11/10/2021				Kevin Eckert Map (HD-7).PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
38	REL00011647.0008	Work Product	11/10/2021				LOWV Map.PNG	Confidential image of publicly submitted maps created by attorney with overlays to convey legal advice in preparation of litigation.	Same
39	REL00011661	Attorney-Client Communication	9/3/2021	Emma Dean	Chris Murphy		Attorney Communication Privileged	Confidential communication from attorney to client with draft work product response to public letter for client's review.	An attorney client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty Gen. of N.Y.</i> , 269, F. Supp. 3d 124, 171 (S.D.N.Y. 2017). The latter would not be protected by the attorney client privilege. <i>Id.</i>

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40	REL00011661.0003	Work Product	9/3/2021				Draft Letter from Ch. Murphy 9.3.21.docx	Attachment to attorney communication to client with draft work product response to public letter for client's review.	This document is not attorney work product. It was not drafted in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."). Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "the driving force behind the preparation of" this document" is for legislation, not litigation. <i>Nat'l Union Fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co.</i> , 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision.").
41	REL00011667	Attorney-Client Communication	9/27/2021	Emma Dean	Jay Jordan		Sept 28 contact talking points	Confidential communication between attorney and client providing legal advice for public meeting.	An attorney-client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty Gen. of N.Y.</i> , 269, F. Supp. 3d 124, 171 (S.D.N.Y. 2017).
42	REL00011667.0001	Attorney-Client Communication; Work Product	9/27/2021				Sept 28 contact talking points.docx	Attachment from attorney with document providing attorney mental impressions/opinions and legal advice for public meeting.	An attorney-client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty Gen. of N.Y.</i> , 269, F. Supp. 3d 124, 171 (S.D.N.Y. 2017). This document is not attorney work product. It was not drafted in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."). Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "the driving force behind the preparation of" this document" is for legislation, not litigation. <i>Nat'l Union Fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co.</i> , 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision.").
43	REL00011670	Attorney-Client Communication	10/8/2021	Emma Dean	Chris Murphy		Atty client communication	Confidential communication from attorney to client with draft work product response to public letter for review.	An attorney-client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty Gen. of N.Y.</i> , 269, F. Supp. 3d 124, 171 (S.D.N.Y. 2017).
44	REL00011670.0001	Attorney-Client Communication	10/8/2021				Proposed Response to September Letter.DOCX	Attachment to attorney communication to client with draft work product for client's review.	Same

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Amended Privilege Log of House Defendants

Line Number	Control Number	Privilege Type	Date	Email From	Email To	Email CC	Title	Privilege Description	Privilege Challenged Basis
45	REL00019575	Work Product	12/1/2021	Emma Dean	Ashley Harwell-Beach		Amendment	Confidential communication between staff counsel regarding legislative drafting of amendments.	This document is not attorney work product. It was not drafted in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."). Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "the driving force behind the preparation of" this document" is for legislation, not litigation. <i>Nat'l Union Fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co.</i> , 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision.").
46	REL00019575.0001	Attorney-Client Communication; Work Product	12/1/2021				12.1 Draft Language.docx	Attachment to communication between staff counsel with draft amendment language.	Same
47	REL00019618	Work Product	12/8/2021	Emma Dean	Ashley Harwell-Beach		Compare Result 5	Confidential communication between staff counsel regarding legislative drafting and change in versions of legislation.	This document is not attorney work product. It was not drafted in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."). Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "the driving force behind the preparation of" this document" is for legislation, not litigation. <i>Nat'l Union Fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co.</i> , 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision.").
48	REL00019618.0001	Work Product	12/8/2021				Compare Result 5.docx	Attachment to communication between staff counsel regarding legislative drafting showing changes in legislation language.	Same
49	REL00019630	Work Product	12/8/2021	Emma Dean	Ashley Harwell-Beach		Re: Redistricting Act	Confidential communication between staff counsel regarding legislative drafting.	Same
50	REL00019630.0001	Work Product	12/8/2021				4493AHB21.pdf	Attachment to communication between staff counsel regarding legislative	Same
51	REL00019984	Attorney-Client Communication	11/11/2021	Jason Elliott	Emma Dean		District 31	Confidential communication from legislator to staff counsel requesting legal advice and attorney opinion for redistricting efforts related to District 31.	An attorney-client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty Gen. of N.Y.</i> , 269 F. Supp. 3d 124, 171 (S.D.N.Y. 2017). The latter would not be protected by the attorney client privilege. <i>Id.</i>
52	REL00020087	Attorney-Client Communication	11/15/2021	Beth Bernstein	Emma Dean; Patricia Henagan; Justin Bamberg; Wallace Jordan; Weston Newton	Jimmy Hinson; Roland Franklin; Linda Anderson; Neal Collins; Jason Elliot	Redistricting	Confidential communication from legislator to staff counsel requesting answers to legal questions related to redistricting.	An attorney-client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty Gen. of N.Y.</i> , 269 F. Supp. 3d 124, 171 (S.D.N.Y. 2017). The latter would not be protected by the attorney client privilege. <i>Id.</i>

South Carolina State Conference of the NAACP, et al. v. McMaster, et al.
Case No. 3:21-cv-03302-JMC-TJH-RMG
Amended Privilege Log of House Defendants

Line Number	Control Number	Privilege Type	Date	Email From	Email To	Email CC	Title	Privilege Description	Privilege Challenged Basis
53	REL00020355	Attorney-Client Communication	9/24/2021	Chris Murphy	Emma Dean		Re: Updated draft	Confidential communication from client to attorney regarding changes to draft document related to map room procedures.	An attorney-client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty's Gen. of N.Y.</i> , 269 F. Supp. 3d 124, 171 (S.D.N.Y. 2017).
54	REL00020441	Work Product	10/1/2021	copier@scstatehouse.gov	Emma Dean		Scanned image from MX-6070N	Scan transmission for staff counsel file.	This document is not attorney work product. It was not drafted in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."). Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "the driving force behind the preparation of" this document" is for legislation, not litigation. <i>Nat'l Union fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co.</i> , 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision."). In addition, House Defendants have the burden of demonstrating that the work product privilege applies. <i>Bethune-Hill</i> , 114 F. Supp. 3d at 347. There is insufficient information to support a attorney work product privilege claim.
55	REL00020441.0001	Work Product	10/1/2021				BL302Copier_20211001_143826.pdf	Scan for staff counsel file (scan of Row 1 on this Log).	This document is not attorney work product. It was not drafted in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."). Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "the driving force behind the preparation of" this document" is for legislation, not litigation. <i>Nat'l Union fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co.</i> , 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision."). In addition, House Defendants have the burden of demonstrating that the work product privilege applies. <i>Bethune-Hill</i> , 114 F. Supp. 3d at 347. There is insufficient information to support a attorney work product privilege claim.
56	REL00020453	Work Product	10/1/2021	copier@scstatehouse.gov	Emma Dean		Scanned image from MX-6070N	Scan transmission for staff counsel file.	This document is not attorney work product. It was not drafted in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."). Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "the driving force behind the preparation of" this document" is for legislation, not litigation. <i>Nat'l Union fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co.</i> , 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision."). In addition, House Defendants have the burden of demonstrating that the work product privilege applies. <i>Bethune-Hill</i> , 114 F. Supp. 3d at 347. There is insufficient information to support a attorney work product privilege claim.
57	REL00020453.0001	Work Product	10/1/2021				BL302Copier_20211001_162239.pdf	Scan for staff counsel file (scan of Row 1 on this Log).	This document is not attorney work product. It was not drafted in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."). Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "the driving force behind the preparation of" this document" is for legislation, not litigation. <i>Nat'l Union fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co.</i> , 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision."). In addition, House Defendants have the burden of demonstrating that the work product privilege applies. <i>Bethune-Hill</i> , 114 F. Supp. 3d at 347. There is insufficient information to support a attorney work product privilege claim.
58	REL00020716	Attorney-Client Communication	11/18/2021	Elizabeth Taylor	Vic Dabney	Emma Dean; Jimmy Hinson	RE: Amendment to the Redistricting Plan.	Confidential communication from legislator to legislative council with questions regarding draft map and legislative process with response from legislative council to staff attorneys.	An attorney-client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty's Gen. of N.Y.</i> , 269 F. Supp. 3d 124, 171 (S.D.N.Y. 2017).
59	REL00020759	Attorney-Client Communication	11/29/2021	Mark Smith	Emma Dean	Patrick Dennis	Re: Letter from Chairman Murphy	Confidential communication from legislator to staff counsel with questions regarding draft map and legislative process.	An attorney-client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty's Gen. of N.Y.</i> , 269 F. Supp. 3d 124, 171 (S.D.N.Y. 2017).

South Carolina State Conference of the NAACP, et al. v. McMaster, et al.

Case No. 3:21-cv-03302-JMC-TJH-RMG

Amended Privilege Log of House Defendants

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60	REL00020769	Work Product	11/29/2021	Thomas Hauger	Ashley Harwell-Beach	Emma Dean	RE: Redistricting Jefferson Amendment	Confidential communication from legislative staff to staff counsel with questions regarding draft map and legislative process.	This document is not attorney work product. It was not drafted in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."). Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "the driving force behind the preparation of" this document "is for legislation, not litigation. <i>Nat'l Union Fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co.</i> , 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision.").
61	REL00020770	Work Product	11/29/2021	Ashley Harwell-Beach	Thomas Hauger	Emma Dean	RE: Redistricting Jefferson Amendment	Confidential communication from staff counsel to legislative staff regarding draft map and legislative process.	Same
62	REL00020775	Work Product	11/30/2021	Ashley Harwell-Beach	Thomas Hauger; Bonnie Huth	Emma Dean	RE: Floor Amendments	Confidential communication from staff counsel to legislative staff regarding draft map and legislative process.	Same
63	REL00020779	Work Product	11/30/2021	Ashley Harwell-Beach	Thomas Hauger; Bonnie Huth	Emma Dean	RE: Floor Amendments	Confidential communication from staff counsel to legislative staff regarding draft map and legislative process.	Same
64	REL00020802	Work Product	11/30/2021	Thomas Hauger	Ashley Harwell-Beach; Bonnie Huth	Emma Dean	RE: Floor Amendments	Confidential communication from legislative staff to staff counsel with questions regarding draft map and legislative process.	Same
65	REL00020808	Work Product	12/3/2021	Paula Benson	Patrick Dennis; Emma Dean; Andy Fifflick		Language for Redistricting	Confidential communication between staff attorneys for House and Senate regarding legislative language.	Same
66	REL00020808.0001	Work Product	12/3/2021				Language to Consider for SECTION 1 and for Litigation docs	Confidential draft language shared with staff attorneys for House for review and comment.	Same
67	REL00020814	Work Product	12/5/2021	Thomas Hauger	Ashley Harwell-Beach; Patrick Dennis; Emma Dean		RE: Update to Murphy Amendment	Confidential communication from legislative staff to staff counsel with update on amendment.	Same
68	REL00020815	Work Product	12/5/2021	Ashley Harwell-Beach	Thomas Hauger; Patrick Dennis; Emma Dean		RE: Update to Murphy Amendment	Confidential communication from staff counsel to legislative staff responding to update about amendment.	Same
69	REL00020817	Work Product	12/6/2021	Thomas Hauger	Ashley Harwell-Beach; Patrick Dennis; Emma Dean		RE: Update to Murphy Amendment	Confidential communication from legislative staff to staff counsel with update on amendment.	Same
70	REL00020824	Attorney-Client Communication	12/6/2021	Ashley Harwell-Beach	Thomas Hauger; Patrick Dennis; Emma Dean		RE: Update to Murphy Amendment	Confidential communication from staff counsel to legislative staff responding to update about amendment.	An attorney-client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty Gen. of N.Y.</i> , 209 F. Supp. 3d 124, 171 (S.D.N.Y. 2017). The latter would not be protected by the attorney-client privilege. <i>Id.</i>
71	REL00020927	Work Product	11/8/2021	Ashley Harwell-Beach	Emma Dean		Redistricting	Communication between staff counsel regarding internal process planning.	This document is not attorney work product. It was not drafted in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."). Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "the driving force behind the preparation of" this document "is for legislation, not litigation. <i>Nat'l Union Fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co.</i> , 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision.").

South Carolina State Conference of the NAACP, et al. v. McMaster, et al.

Case No. 3:21-cv-03302-JMC-TJH-RMG

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72	REL00021323	Attorney-Client Communication; Work Product	9/3/2021	Emma Dean	Chris Murphy		Attorney Communication Privileged	Confidential communication from attorney to client with draft work product response to public letter for review.	An attorney-client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty's Gen. of N.Y.</i> , 269, F. Supp. 3d 124, 171 (S.D.N.Y. 2017). This document is not attorney work product. It was not draft in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."); Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "driving force behind the preparation of" this document "is for legislation, not litigation. Nat'l Union fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co., 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision.").
73	REL00021323.0003	Attorney-Client Communication; Work Product	9/3/2021				Draft Letter from Ch. Murphy 9.3.21.docx	Attachment to attorney communication to client with draft work product response to public letter for client's review.	Same
74	REL00021658	Attorney-Client Communication	7/19/2021	Emma Dean	Chris Murphy		RE: 7.21.21 Draft letter	Confidential communication from attorney to client with draft work product response to public letter for review.	An attorney-client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty's Gen. of N.Y.</i> , 269, F. Supp. 3d 124, 171 (S.D.N.Y. 2017).
75	REL00023916	Attorney-Client Communication	7/20/2021	Chris Murphy	Emma Dean	Patrick Dennis; Jay Jordan	Re: 7.21.21 Draft letter	Confidential communication from legislator to staff counsel with questions regarding draft map and legislative process.	Same
76	REL00027893	Attorney-Client Communication	8/10/2021	Patrick Dennis	Richard Pearce		--- Untitled Document ---	Confidential communication between staff counsel regarding redistricting update.	An attorney-client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty's Gen. of N.Y.</i> , 269, F. Supp. 3d 124, 171 (S.D.N.Y. 2017). The latter would not be protected by the attorney-client privilege. <i>Id.</i>
77	REL00028185	Attorney-Client Communication; Work Product	9/21/2021	Patrick Dennis	Jay Lucas; Patrick Dennis; Haley Mottel		Sine Die Adjournment	Confidential communication between staff counsel and legislator with attorney legal advice, mental impressions, and opinions regarding legislative procedure.	An attorney-client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty's Gen. of N.Y.</i> , 269, F. Supp. 3d 124, 171 (S.D.N.Y. 2017). The latter would not be protected by the attorney-client privilege. <i>Id.</i> This document is not attorney work product. It was not draft in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."); Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "driving force behind the preparation of" this document "is for legislation, not litigation. Nat'l Union fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co., 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision.").
78	REL00028205	Attorney-Client Communication	9/28/2021	Patrick Dennis	Rep. Bill Taylor		Fwd: Sine Die Adjournment	Confidential communication between staff counsel and legislator with attorney legal advice, mental impressions, and opinions regarding legislative procedure.	An attorney-client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty's Gen. of N.Y.</i> , 269, F. Supp. 3d 124, 171 (S.D.N.Y. 2017). The latter would not be protected by the attorney-client privilege. <i>Id.</i>
79	REL00028206	Attorney-Client Communication	9/28/2021	Patrick Dennis	Rep. Bill Taylor		FW: Sine Die Adjournment	Confidential communication between staff counsel and legislator with attorney legal advice, mental impressions, and opinions regarding legislative procedure.	Same

South Carolina State Conference of the NAACP, et al. v. McMaster, et al.

Case No. 3:21-cv-03302-JMC-TJH-RMG

Amended Privilege Log of House Defendants

Line Number	Control Number	Privilege Type	Date	Email From	Email To	Email CC	Title	Privilege Description	Privilege Challenged Basis
80	REL00028249	Attorney-Client Communication	10/12/2021	Patrick Dennis	Jay Lucas; Haley Mottel		Lawsuit Over South Carolina Redistricting Failures	Confidential communication from counsel regarding complaint and litigation process.	An attorney-client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty Gen. of N.Y.</i> , 269 F. Supp. 3d 124, 171 (S.D.N.Y. 2017). The latter would not be protected by the attorney-client privilege. <i>Id.</i>
81	REL00028277	Attorney-Client Communication; Work Product	10/15/2021	Patrick Dennis	Nicolette Walters		RE: Zak Koeske Qs	containing attorney's mental impressions and opinions regarding media questions.	An attorney-client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty Gen. of N.Y.</i> , 269 F. Supp. 3d 124, 171 (S.D.N.Y. 2017). The latter would not be protected by the attorney-client privilege. <i>Id.</i> This document is not attorney work product. It was not drafted in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."). Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "driving force behind the preparation of" this document" is for legislation, not litigation. <i>Nat'l Union fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co.</i> , 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision."). Further, entries involving media inquiries (Log nos. 81, 82, 90) are flatly not covered by the attorney-client privilege. See <i>In re Signet Jewelers Ltd. Secs. Litig.</i> , 332 F.R.D. 131, 136 (S.D.N.Y. 2019); <i>Laith Group, Inc. v. Grasso</i> , No. 1:07-cv-0972-SEB-TAB, 2008 WL 926631, at *4 (S.D. Ind. Apr. 4, 2008) (quoting <i>City of Springfield v. Rexnord Corp.</i> , 196 F.R.D. 7, 9 (D. Mass. 2000))
82	REL00028278	Attorney-Client Communication; Work Product	10/15/2021	Patrick Dennis	Haley Mottel		FW: Zak Koeske Qs	containing attorney's mental impressions and opinions regarding media questions.	Same
83	REL00028413	Attorney-Client Communication; Work Product	11/17/2021	Patrick Dennis	Charles Reid		RE: Speaker Lucas Calling the House into Statewide Session Beginning 2:00 pm, Wednesday, December 1, 2021	Confidential communication between staff counsel with draft email language asking for attorney's mental impressions and opinion regarding legislative procedure.	An attorney-client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty Gen. of N.Y.</i> , 269 F. Supp. 3d 124, 171 (S.D.N.Y. 2017). The latter would not be protected by the attorney-client privilege. <i>Id.</i> This document is not attorney work product. It was not drafted in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."). Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "driving force behind the preparation of" this document" is for legislation, not litigation. <i>Nat'l Union fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co.</i> , 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision.").
84	REL00028439	Attorney-Client Communication; Work Product	11/23/2021	Patrick Dennis	Ashley Harwell-Beach; Charles Reid		RE: Rules Committee - Special Order Redistricting	Confidential communication between staff counsel regarding legislative drafting.	Same
85	REL00028440	Attorney-Client Communication; Work Product	11/23/2021	Patrick Dennis	Charles Reid; Ashley Harwell- Beach		RE: Rules Committee - Special Order Redistricting	Confidential communication between staff counsel regarding legislative drafting.	Same
86	REL00028510	Attorney-Client Communication; Work Product	12/8/2021	Patrick Dennis	Julia Foster		--- Untitled Document ---	Confidential communication between staff counsel regarding legislative drafting.	Same
87	REL00028510.0001	Attorney-Client Communication; Work Product	12/8/2021				7524AHB21.pdf	Attachment to communication between staff counsel with draft legislative language.	Same
88	REL00028564	Attorney-Client Communication; Work Product	12/8/2021	Patrick Dennis	Julia Foster		FW: Special Order Draft	Confidential communication between staff counsel regarding legislative drafting.	Same
89	REL00028564.0001	Attorney-Client Communication; Work Product	12/8/2021				7524AHB21.docx	Attachment to communication between staff counsel with draft legislative language.	Same
90	REL00029117	Attorney-Client Communication	7/19/2021	Patrick Dennis	Charles Reid; Haley Mottel; Nicolette Walters		RE: reapportionment expenses	Confidential communication among staff counsel and legislative staff regarding response to media request for information.	An attorney-client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty Gen. of N.Y.</i> , 269 F. Supp. 3d 124, 171 (S.D.N.Y. 2017). The latter would not be protected by the attorney-client privilege. <i>Id.</i> Further, entries involving media inquiries (Log nos. 81, 82, 90) are flatly not covered by the attorney-client privilege. See <i>In re Signet Jewelers Ltd. Secs. Litig.</i> , 332 F.R.D. 131, 136 (S.D.N.Y. 2019); <i>Laith Group, Inc. v. Grasso</i> , No. 1:07-cv-0972-SEB-TAB, 2008 WL 926631, at *4 (S.D. Ind. Apr. 4, 2008) (quoting <i>City of Springfield v. Rexnord Corp.</i> , 196 F.R.D. 7, 9 (D. Mass. 2000))

South Carolina State Conference of the NAACP, et al. v. McMaster, et al.
Case No. 3:21-cv-03302-JMC-TJH-RMG
Amended Privilege Log of House Defendants

Line Number	Control Number	Privilege Type	Date	Email From	Email To	Email CC	Title	Privilege Description	Privilege Challenged Basis
91	REL00029130	Attorney-Client Communication	7/23/2021	Patrick Dennis	Charles Cannon; Gary Simrill	Patrick Dennis	DRAFT email about retreat	Confidential communication among staff counsel and legislator with draft notice to caucus members.	Same
92	REL00033189	Attorney-Client Communication	10/14/2021	Roland Franklin	Chip Huggins		Census Numbers	Confidential communication from staff counsel to legislator responding to inquiry about appeal rights.	Same
93	REL00034495	Attorney-Client Communication; Work Product	12/2/2021	Ashley Harwell-Beach	Thomas Hauger		RE: Brawley's Amendments	Confidential communication among legislative staff and staff counsel regarding legislative amendment process.	An attorney client relationship does not exist among the individuals in the email. The attorney-client privilege is "narrowly construed" and only applies if, among other things, the person asserting the privilege is the client and the attorney is "acting as a lawyer." <i>Bethune-Hill</i> , 114 F. Supp. 3d at 346 (quoting <i>United States v. Jones</i> , 696 F.2d 1069, 1072 (4th Cir. 1982)). House Defendants have not produced a retainer stating that an attorney-client relationship exists between counsel and the legislator. Further, House Defendants fail to provide sufficient evidence to determine if this communication was for the predominate purpose of legal advice rather than policy advice. <i>Citizens Union of City of N.Y. v. Atty Gen. of N.Y.</i> , 269 F. Supp. 3d 124, 171 (S.D.N.Y. 2017). The latter would not be protected by the attorney client privilege. <i>Id.</i> This document is not attorney work product. It was not drafted in "anticipation of litigation" but over the "ordinary course of" legislation. <i>Bethune-Hill v. Va State Bd. of Election</i> , 114 F. Supp. 3d 323, 348 (E.D. Va. 2015) (quoting <i>Hickman v. Taylor</i> , 329 U.S. 508-10 (1947)); see Fed. R. Civ. P. 26(b)(3) (emphasis added) (the work product product protection is a qualified privilege for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative."). Courts have been clear that documents pertaining to legislation cannot be withheld on the basis of attorney work product because "the legislature could always have a reasonable belief that any of its enactments would result in litigation. That is the nature of the legislative process." <i>Id.</i> (internal edits omitted) (quoting <i>Baldus v. Brennan</i> , 2011 WL 6385645, at *2 (E.D. Wis. Dec. 20, 2011)). The "redistricting process" is a quintessential legislative function even though it occurs every 10 years. As a result, the "the driving force behind the preparation of" this document" is for legislation, not litigation. <i>Nat'l Union fire Ins. Co. of Pittsburgh v. Murray Sheet Metal Co.</i> , 967 F.2d 980, 984 (4th Cir. 1992). This would not include "business or technical advice or management decisions." <i>Perez v. Perry</i> , 2014 WL 3359324, at *1 (W.D. Tx. July 9, 2014) (citations omitted); Rule 26 Advisory Comm.'s Notes to 1970 amendment ("Materials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes are not under the qualified immunity provided by this subdivision.").